

ADOBE SYSTEMS INC
Form 10-K/A
March 28, 2003

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-K/A

Amendment No. 1

(Mark one)

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended November 29, 2002

or

[]

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _____ to _____

Commission file number: 0-15175

ADOBE SYSTEMS INCORPORATED

(Exact name of registrant as specified in its charter)

Delaware
*(State or other jurisdiction of
incorporation or organization)*

77-0019522
*(I.R.S. Employer
Identification No.)*

345 Park Avenue, San Jose, California 95110-2704

(Address of principal executive offices)

Registrant's telephone number, including area code: (408) 536-6000

Securities registered pursuant to Section 12(b) of the Act: None

Securities registered pursuant to Section 12(g) of the Act: Common Stock

Indicate by checkmark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15 (d) of the Securities Exchange Act of 1934 (the Act) during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes [X] No []

Indicate by checkmark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. []

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Act).

Yes [X] No []

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The aggregate market value of the registrant's common stock, \$0.0001 par value per share, held by non-affiliates of the registrant on May 31, 2002, the last business day of the registrant's most recently completed second fiscal quarter, was \$1,462,142,091 (based on the closing sales price of the registrant's common stock on that date). Shares of the registrant's common stock held by each officer and director and each person who owns 5% or more of the outstanding common stock of the registrant have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes. As of January 24, 2003, 231,074,795 shares of the registrant's common stock, \$0.0001 par value per share, were issued and outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Proxy Statement for the 2003 Annual Meeting of Stockholders (the Proxy Statement), to be filed within 120 days of the end of the fiscal year ended November 29, 2002, are incorporated by reference in Part III hereof. Except with respect to information specifically incorporated by reference in this Form 10-K, the Proxy Statement is not deemed to be filed as part hereof.

Amendment No. 1

Adobe Systems Incorporated hereby amends its Annual Report on Form 10-K for the fiscal year ended November 29, 2002 to include, as Exhibits 99.1 and 99.2, its certifications under Section 906 of the Sarbanes-Oxley Act of 2002. The Company inadvertently attached duplicate copies of the certifications required under Section 302 of the Sarbanes Oxley Act instead of the required Section 906 certifications as Exhibits 99.1 and 99.2 of the original report.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this amendment to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated: March 28, 2003

ADOBE SYSTEMS INCORPORATED

By: /s/ Murray J. Demo

Murray J. Demo,
Senior Vice President and Chief Financial Officer
(Principal Financial and Accounting Officer)

CERTIFICATIONS

I, Bruce R. Chizen, Chief Executive Officer of the registrant, certify that:

1. I have reviewed this annual report on Form 10-K of Adobe Systems Incorporated;

2. Based on my knowledge, this annual report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this annual report;

3. Based on my knowledge, the financial statements, and other financial information included in this annual report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this annual report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and we have:

(a) designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;

(b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this annual report (the "Evaluation Date"); and

(c) presented in this annual report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent function):

(a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and

(b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and

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6. The registrant's other certifying officer and I have indicated in this annual report whether or not there were significant changes in internal controls or in other factors that could significantly affect the internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Dated: March 28, 2003

/s/ BRUCE R. CHIZEN

Bruce R. Chizen

Chief Executive Officer

I, Murray J. Demo, Chief Financial Officer of the registrant, certify that:

1. I have reviewed this annual report on Form 10-K of Adobe Systems Incorporated;

2. Based on my knowledge, this annual report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this annual report;

3. Based on my knowledge, the financial statements, and other financial information included in this annual report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this annual report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and we have:

(a) designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;

(b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this annual report (the "Evaluation Date"); and

(c) presented in this annual report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent function):

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(a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and

(b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and

6. The registrant's other certifying officer and I have indicated in this annual report whether or not there were significant changes in internal controls or in other factors that could significantly affect the internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Dated: March 28, 2003

/s/ MURRAY J. DEMO
Murray J. Demo
Chief Financial Officer

Index to Exhibits

| Exhibit Number | Exhibit Description | Incorporated by Reference | | Number | Filed Herewith |
|-------------------|--|---------------------------|----------|---------|-------------------|
| | | Form | Date | | |
| 3.2 | Amended and Restated Bylaws as currently in effect | - | | | X |
| 3.4 | Agreement and Plan of Merger effective 5/30/97 (by virtue of a reincorporation), by and between Adobe Systems Incorporated, a California corporation and Adobe Systems (Delaware) Incorporated, a Delaware corporation | 10-Q | 05/30/97 | 2.1 | |
| 3.6 | Restated Certificate of Incorporation, as filed with the Secretary of State of the State of Delaware on 5/22/01 | 10-Q | 7/16/01 | 3.6 | |
| 4.2 | Fourth Amended and Restated Rights Agreement between the Company and Computershare Investor Services, LLC | 8-K | 7/3/00 | 1 | |
| 10.1.6 | 1984 Stock Option Plan, as amended* | 10-Q | 07/02/93 | 10.1.6 | |
| 10.21.3 | Revised Bonus Plan* | 10-Q | 02/28/97 | 10.21.3 | |
| 10.23 | Amended 1994 Performance and Restricted Stock Plan* | 10-Q | 05/29/98 | 10.24.2 | |
| 10.24 | 1994 Stock Option Plan* | 10-Q | 5/27/94 | 10.1.7 | |
| 10.25 | 1994 Stock Option Plan, as amended* | S-8 | 05/30/97 | 10.40 | |
| 10.26 | 1997 Employee Stock Purchase Plan, as amended* | 10-K | 12/1/00 | 10.70 | |
| 10.28 | 1996 Outside Directors Stock Option Plan* | 10-Q | 05/31/96 | 10.36 | |
| 10.29 | 1996 Outside Directors Stock Option Plan, as amended* | S-8 | 6/16/00 | 4.7 | |
| 10.30 | Forms of Stock Option Agreements used in connection with the 1996 Outside Directors Stock Option Plan* | S-8 | 6/16/00 | 4.8 | |
| 10.31 | 1996 Outside Directors Stock Option Plan, as amended* | 10-Q | 7/16/01 | 10.75 | |
| 10.32 | 1996 Outside Directors Stock Option Plan, as amended | S-8 | 6/14/02 | 4.6 | |
| 10.33 | 1999 Nonstatutory Stock Option Plan* | S-8 | 9/15/99 | 4.6 | |
| 10.34 | 1999 Nonstatutory Stock Option Plan, as amended* | S-8 | 12/22/00 | 4.6 | |
| 10.35 | 1999 Nonstatutory Stock Option Plan, as amended* | S-8 | 3/15/01 | 4.7 | |
| 10.36 | 1999 Nonstatutory Stock Option Plan, as amended* | S-8 | 10/29/01 | 4.6 | |
| 10.37 | 1999 Equity Incentive Plan, as amended* | | | | X |
| 10.41 | Form of Indemnity Agreement* | 10-Q | 05/30/97 | 10.25.1 | |
| 10.42 | Amended and Restated Limited Partnership Agreement of Adobe Incentive Partners, L.P.* | 10-Q | 8/28/98 | 10.42 | |

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|-------------------|---|---------------------------|----------|--------|-------------------|
| | | Form | Date | | |
| 10.43 | Amendment to Limited Partnership Agreement of Adobe Incentive Partners, L.P.* | 10-Q | 6/4/99 | 10.52 | |
| 10.44 | Adobe Incentive Partners, L.P. Consent to Dissolve and Terminate Partnership* | | | | X |
| 10.45 | Forms of Retention Agreement* | 10-K | 11/28/97 | 10.44 | |
| 10.53 | Amended, Restated and Consolidated Master Lease of Land and Improvements by and between Sumitomo Bank Leasing and Finance, Inc. and Adobe Systems Incorporated | 10-Q | 9/3/99 | 10.53 | |
| 10.54 | Credit Agreement among Adobe Systems Incorporated, Lenders named therein and ABN AMRO Bank N.V., as Administrative Agent, with certain related Credit Documents | 10-Q | 9/3/99 | 10.54 | |
| 10.56 | Note Secured by Deed of Trust and Promissory Note* | 10-K | 12/3/99 | 10.56 | |
| 10.66 | Credit Agreement among Adobe Systems Incorporated, Lenders Named therein and ABN Amro Bank N.V., as Administrative Agent, with Certain Related Credit Documents | 10-Q | 9/1/00 | 10.66 | |
| 10.67 | Amendment No. 1 to 1999 Credit Agreement among Adobe Systems Incorporated, Lenders Named Therein and ABN Amro Bank N.V., as Administrative Agent, with Certain Related Credit Documents | 10-Q | 9/1/00 | 10.67 | |
| 10.68 | Amendment No. 1 to Amended, Restated and Consolidated Master Lease of Land and Improvements between Adobe Systems Incorporated and Sumitomo Bank Leasing and Finance, Inc. | 10-Q | 7/16/01 | 10.68 | |
| 10.69 | Amendment No. 2 to Amended, Restated, and Consolidated Master Lease of Land and Improvements between Adobe Systems Incorporated and Sumitomo Bank Leasing and Finance, Inc. | 10-Q | 9/1/00 | 10.68 | |
| 10.77 | Lease agreement between Adobe Systems and Selco Service Corporation | 10-K | 2/21/02 | 10.77 | |
| 10.78 | Participation agreement among Adobe Systems, Selco Service Corporation, et al. | 10-K | 2/21/02 | 10.78 | |
| 10.79 | Confidential Resignation Agreement* | 10-K | 2/21/02 | 10.79 | |
| 10.80 | Executive Severance Plan in the Event of a Change of Control* | 10-K | 2/21/02 | 10.80 | |
| 10.81 | Amendment No.1 to Lease Agreement between Adobe and Selco Services Corporation | | | | X |
| 21 | Subsidiaries of the Registrant | | | | X |
| 23 | Consent of KPMG LLP | | | | X |

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|---------------------------|--|----------------------------------|-------------|---------------|---------------------------|
| | | Form | Date | | |
| 99.1 | Certification of Chief Executive Officer | | | | X |
| 99.2 | Certification of Chief Financial Officer | | | | X |
